

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TEHACHAPI UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015120968

ORDER DENYING DISTRICT'S
MOTION TO DISMISS

On December 18, 2015, Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings, naming Tehachapi Unified School District.

On April 11, 2016, District filed a Motion to Dismiss alleging that Student's behavioral issues had previously been litigated in OAH's decision entitled *Parent on behalf of Student v. Tehachapi Unified School District*, Case No. 2015060035, January 19, 2016 (the Prior Case).

On April 12, 2016, Student filed an opposition asserting that he did not litigate District's failure to address his behavioral needs in the Prior Case.

APPLICABLE LAW

Under the doctrine of res judicata, a final judgment on the merits of an action precludes the parties or their agents from relitigating issues that were or could have been raised in that action. (*Allen v. McCurry* (1980) 449 U.S. 90, 94 [101 S.Ct. 411, 66 L.Ed.2d 308].)

Collateral estoppel requires that the issue presented for adjudication be the same one that was decided in the prior action, that there be a final judgment on the merits in the prior action, and that the party against whom the plea is asserted was a party to the prior action. (See 7 Witkin, California Procedure (4th Ed., Judgment § 280 et seq.) Under collateral estoppel, once a court has decided an issue of fact or law necessary to its judgment, that decision may preclude relitigation of the issue in a suit on a different cause of action involving a party to the first case. (*Ibid.*; *Lucido v. Superior Court* (1990) 51 Cal.3d 335, 341; see also *Migra v. Warren City School Dist. Bd. of Ed.* (1984) 465 U.S. 75, 77, n. 1 [104 S.Ct. 892, 79 L.Ed.2d 56] [federal courts use the term "issue preclusion" to describe the doctrine of collateral estoppel].)

Federal and state courts have traditionally adhered to the related doctrines of res judicata and collateral estoppel. (*Allen v. McCurry*, *supra*, 449 U.S. at p. 90, 94; *Levy v. Cohen* (1977) 19 Cal.3d 165, 171 [collateral estoppel requires that the issue presented for adjudication be the same one that was decided in the prior action, that there be a final judgment on the merits in the prior action, and that the party against whom the plea is asserted was a party to the prior action]; see 7 Witkin, California Procedure (4th Ed.), Judgment § 280 et seq.) Under the doctrine of res judicata, a final judgment on the merits of an action precludes the parties or their agents from relitigating issues that were or could have been raised in that action. (*Allen v. McCurry*, *supra*, 449 U.S. at p. 94.) Under collateral estoppel, once a court has decided an issue of fact or law necessary to its judgment, that decision may preclude relitigation of the issue in a suit on a different cause of action involving a party to the first case. (*Ibid.*; *Lucido v. Superior Court*, *supra*, 51 Cal.3d at 341; see also *Migra v. Warren City School Dist. Bd. of Ed.*, *supra*, 465 U.S. 75, 77, n. 1 [federal courts use the term “issue preclusion” to describe the doctrine of collateral estoppel].)

The doctrines of res judicata and collateral estoppel serve many purposes, including relieving parties of the cost and vexation of multiple lawsuits, conserving judicial resources, and, by preventing inconsistent decisions, encouraging reliance on adjudication. (*Allen v. McCurry*, *supra*, 449 U.S. at p. 94; see *University of Tennessee v. Elliott* (1986) 478 U.S. 788, 798 [106 S.Ct. 3220, 92 L.Ed.2d 635.]) While collateral estoppel and res judicata are judicial doctrines, they are also applied to determinations made in administrative settings. (See *Pacific Lumber Co. v. State Resources Control Board* (2006) 37 Cal.4th 921, 944, citing *People v. Sims* (1982) 32 Cal.3d 468, 479; *Hollywood Circle, Inc. v. Department of Alcoholic Beverage Control* (1961) 55 Cal.2d 728, 732.)

However, the Individuals with Disabilities Education Act contains a section that modifies the general analysis with regard to res judicata and collateral estoppel. The IDEA specifically states that nothing in the Act shall be construed to preclude a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed. (20 U.S.C. § 1415(o); 34 C.F.R. § 300.513(c) (2006); Ed Code, § 56509.) Therefore, although parties are precluded from relitigating issues already heard in previous due process proceedings, parents are not precluded from filing a new due process complaint on issues that could have been raised and heard in the first case, but were not.

DISCUSSION AND ORDER

The issues in the Prior Case were:

“1. Did District deny Student a free and appropriate public education by failing to offer home hospital instruction when Student was home recuperating from surgeries from a) October 10, 2013, through December 5, 2013, and b) September 10, 2014, through January 10, 2014?

2. Did District deny Student a FAPE by failing to provide appropriate accommodations and supports in Student's 2013-2014 and 2014-2015 individual education plans for his mobility needs regarding: (i) campus access; (ii) changing table access; (iii) time accommodation and appropriate staff support for school bus access; (iv) classroom access; and (v) playground access?"

The issues in the present case as stated in the complaint are:

Whether District denied Student a free and appropriate public education from December 18, 2013 to the present by failing: (i) to provide an appropriate behavior intervention plan; and (ii) to administer behavior interventions in a manner that respects human dignity and personal privacy.

Student's behavioral needs were not litigated issues in the Prior Case. Accordingly, District's motion to dismiss on the basis of collateral estoppel is denied.

ORDER

District's Motion to Dismiss is denied. The matter shall proceed as scheduled.

DATE: April 19, 2016

DocuSigned by:
Peter Paul Castillo
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for

SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings